

OMNIBUS CRIME CONTROL ACT OF 1970

DECEMBER 16, 1970.—Ordered to be printed

Mr. CELLER, from the committee of conference,
submitted the following

CONFERENCE REPORT

[To accompany H.R. 17825]

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 17825) to amend the Omnibus Crime Control and Safe Streets Act of 1968, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendment of the Senate and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the Senate amendment insert the following:

That this Act may be cited as the "Omnibus Crime Control Act of 1970."

TITLE I—OMNIBUS CRIME CONTROL AND SAFE STREETS ACT AMENDMENTS

LAW ENFORCEMENT ASSISTANCE ADMINISTRATION

SEC. 2. Section 101 of the Omnibus Crime Control and Safe Streets Act of 1968 is amended to read as follows:

"SEC. 101. (a) There is hereby established within the Department of Justice under the general authority of the Attorney General, a Law Enforcement Assistance Administration (hereinafter referred to in this title as 'Administration') composed of an Administrator of Law Enforcement Assistance and two Associate Administrators of Law Enforcement Assistance, who shall be appointed by the President, by and with the advice and consent of the Senate. Beginning after the end of the term of either of the present incumbents, one of the Associate Administrators shall be a member of a political party other than that of the President.

"(b) The Administrator shall be the executive head of the agency and shall exercise all administrative powers, including the appointment and

supervision of Administration personnel. All of the other functions, powers, and duties created and established by this title shall be exercised by the Administrator with the concurrence of either one or both of the two Associate Administrators."

PLANNING GRANTS

SEC. 3. (a) The third sentence of section 203(a) of the Omnibus Crime Control and Safe Streets Act of 1968 is amended to read as follows: "The State planning agency and any regional planning units within the State shall, within their respective jurisdictions, be representative of the law enforcement agencies, units of general local government, and public agencies maintaining programs to reduce and control crime."

(b) Subsection (c) of section 203 of such Act is amended by inserting the following after the period at the end of the first sentence: "The Administration may waive this requirement, in whole or in part, upon a finding that the requirement is inappropriate in view of the respective law enforcement planning responsibilities exercised by the State and its units of general local government and that adherence to the requirement would not contribute to the efficient development of the State plan required under this part. In allocating funds under this subsection, the State planning agency shall assure that major cities and counties within the State receive planning funds to develop comprehensive plans and coordinate functions at the local level."

(c) Subsection (c) of section 203 is amended further by striking out the words "the preceding sentence" and inserting in lieu thereof "this subsection".

(d) Section 204 of such Act is amended by striking the second sentence.

GRANTS FOR LAW ENFORCEMENT PURPOSES

SEC. 4. Part C of title I of the Omnibus Crime Control and Safe Streets Act of 1968 is amended as follows:

(1) Section 301(b)(4) is amended to read as follows:

"(4) Constructing buildings or other physical facilities which would fulfill or implement the purpose of this section, including local correctional facilities, centers for the treatment of narcotic addicts, and temporary courtroom facilities in areas of high crime incidence."

(2) Subsection (b) of section 301 is amended by adding at the end thereof the following new paragraphs:

"(8) The establishment of a Criminal Justice Coordinating Council for any unit of general local government or any combination of such units within the State, having a population of two hundred and fifty thousand or more, to assure improved planning and coordination of all law enforcement activities.

"(9) The development and operation of community based delinquent prevention and correctional programs, emphasizing halfway houses and other community based rehabilitation centers for initial preconviction of postconviction referral of offenders; expanded probationary programs, including paraprofessional and volunteer participation; and community service centers for the guidance and supervision of potential repeat youthful offenders."

(3) Subsection (c) of section 301 is amended to read as follows:

"(c) The portion of any Federal grant made under this section for the purposes of paragraph (5) or (6) of subsection (b) of this section may be

up to 75 per centum of the cost of the program or project specified in the application for such grant. The portion of any Federal grant made under this section for the purposes of paragraph (4) of subsection (b) of this section may be up to 50 per centum of the cost of the program or project specified in the application for such grant. The portion of any Federal grant made under this section to be used for any other purpose set forth in this section may be up to 75 per centum of the cost of the program or project specified in the application for such grant. No part of any grant made under this section for the purpose of renting, leasing, or constructing buildings or other physical facilities shall be used for land acquisition. In the case of a grant under this section to an Indian tribe or other aboriginal group, if the Administration determines that the tribe or group does not have sufficient funds available to meet the local share of the cost of any program or project to be funded under the grant, the Administration may increase the Federal share of the cost thereof to the extent it deems necessary. Effective July 1, 1972, at least 40 per centum of the non-Federal funding of the cost of any program or project to be funded by a grant under this section shall be of money appropriated in the aggregate, by State or individual unit of government, for the purpose of the shared funding of such programs or projects."

(4) Subsection (d) of section 301 is amended to read as follows:

"(d) Not more than one-third of any grant made under this section may be expended for the compensation of police and other regular law enforcement personnel. The amount of any such grant expended for the compensation of such personnel shall not exceed the amount of State or local funds made available to increase such compensation. The limitations contained in this subsection shall not apply to the compensation of personnel for time engaged in conducting or undergoing training programs or to the compensation of personnel engaged in research, development, demonstration or other short-term programs."

(5) Section 303 is amended by inserting immediately after the first sentence the following new sentence: "No State plan shall be approved as comprehensive unless the Administration finds that the plan provides for the allocation of adequate assistance to deal with law enforcement problems in areas characterized by both high crime incidence and high law enforcement activity."

(6) Paragraph (2) of Section 303 is amended by striking out the semicolon and inserting in lieu thereof the following: ", except that each such plan shall provide that beginning July 1, 1972, at least the per centum of Federal assistance granted to the State planning agency under this part for any fiscal year which corresponds to the per centum of the State and local law enforcement expenditures funded and expended in the immediately preceding fiscal year by units of general local government will be made available to such units or combinations of such units in the immediately following fiscal year for the development and implementation of programs and projects for the improvement of law enforcement, and that with respect to such programs or projects the State will provide in the aggregate not less than one-fourth of the non-Federal funding. Per centum determinations under this paragraph for law enforcement funding and expenditures for such immediately preceding fiscal year shall be based upon the most accurate and complete data available for such fiscal year or for the last fiscal year for which such data are available. The Administration shall have the authority to approve such determinations and to review the accuracy and completeness of such data;"

(7) Section 305 is amended to read as follows:

"SEC. 305. Where a State has failed to have a comprehensive State plan approved under this title within the period specified by the Administration for such purpose, the funds allocated for such State under paragraph (1) of section 306(a) of this title shall be available for reallocation by the Administration under paragraph (2) of section 306(a)."

(8) Section 306 is amended to read as follows:

"SEC. 306. (a) The funds appropriated each fiscal year to make grants under this part shall be allocated by the Administration as follows:

"(1) Eighty-five per centum of such funds shall be allocated among the States according to their respective populations for grants to State planning agencies.

"(2) Fifteen per centum of such funds, plus any additional amounts made available by virtue of the application of the provisions of sections 305 and 509 of this title to the grant of any State, may, in the discretion of the Administration, be allocated among the States for grants to State planning agencies, units of general local government, or combinations of such units, according to the criteria and on the terms and conditions the Administration determines consistent with this title.

Any grant made from funds available under paragraph (2) of this subsection may be up to 75 per centum of the cost of the program or project for which such grant is made. No part of any grant under such paragraph for the purpose of renting, leasing, or constructing buildings or other physical facilities shall be used for land acquisition. In the case of a grant under such paragraph to an Indian tribe or other aboriginal group, if the Administration determines that the tribe or group does not have sufficient funds available to meet the local share of the costs of any program or project to be funded under the grant, the Administration may increase the Federal share of the cost thereof to the extent it deems necessary. The limitations on the expenditure of portions of grants for the compensation of personnel in subsection (d) of section 301 of this title shall apply to a grant under such paragraph. Effective July 1, 1972, at least 40 per centum of the non-Federal funding of the cost of any program or project to be funded by a grant under such paragraph shall be of money appropriated in the aggregate, by State or individual unit of government, for the purpose of the shared funding of such programs or projects.

"(b) If the Administration determines, on the basis of information available to it during any fiscal year, that a portion of the funds allocated to a State for that fiscal year for grants to the State planning agency of the State will not be required by the State, or that the State will be unable to qualify to receive any portion of the funds under the requirements of this part, that portion shall be available for reallocation to other States under paragraph (1) of subsection (a) of this section."

TRAINING, EDUCATION, RESEARCH, DEMONSTRATION, AND SPECIAL GRANTS

SEC. 5. Part D of title I of the Omnibus Crime Control and Safe Streets Act of 1968 is amended as follows:

(1) Section 406 is amended—

(A) by striking "in areas directly related to law enforcement or preparing for employment in law enforcement" in the first sentence of subsection (b) and inserting in lieu thereof "in areas related to law enforcement or suitable for persons employed in law enforcement";

(B) by striking out "tuition and fees" in the first sentence of subsection (c) and inserting in lieu thereof "tuition, books, and fees"; and

(C) by inserting at the end thereof the following new subsections:

"(d) Full-time teachers or persons preparing for careers as full-time teachers of courses related to law enforcement or suitable for persons employed in law enforcement, in institutions of higher education which are eligible to receive funds under this section, shall be eligible to receive assistance under subsections (b) and (c) of this section as determined under regulations of the Administration.

"(e) The Administration is authorized to make grants to or enter into contracts with institutions of higher education, or combinations of such institutions, to assist them in planning, developing, strengthening, improving, or carrying out programs or projects for the development or demonstration of improved methods of law enforcement education, including—

"(1) planning for the development or expansion of undergraduate or graduate programs in law enforcement;

"(2) education and training of faculty members;

"(3) strengthening the law enforcement aspects of courses leading to an undergraduate, graduate, or professional degree; and

"(4) research into, and development of, methods of educating students or faculty, including the preparation of teaching materials and the planning of curriculums.

The amount of a grant or contract may be up to 75 per centum of the total cost of programs and projects for which a grant or contract is made.

"(f) The Administration is authorized to enter into contracts to make, and make, payments to institutions of higher education for grants not exceeding \$50 per week to persons enrolled on a full-time basis in undergraduate or graduate degree programs who are accepted for and serve in full-time internships in law enforcement agencies for not less than eight weeks during any summer recess or for any entire quarter or semester on leave from the degree program."

(2) Part D is further amended by inserting after section 406 the following new section:

"SEC. 407. The Administration is authorized to develop and support regional and national training programs, workshops, and seminars to instruct State and local law enforcement personnel in improved methods of crime prevention and reduction and enforcement of the criminal law. Such training activities shall be designed to supplement and improve, rather than supplant, the training activities of the State and units of general local government, and shall not duplicate the activities of the Federal Bureau of Investigation under section 404 of this title."

"SEC. 408. (a) The Administration is authorized to establish and support a training program for prosecuting attorneys from State and local offices engaged in the prosecution of organized crime. The program shall be designed to develop new or improved approaches, techniques, systems, manuals, and devices to strengthen prosecutive capabilities against organized crime.

"(b) While participating in the training program or traveling in connection with participation in the training program, State and local personnel shall be allowed travel expenses and a per diem allowance in the same manner as prescribed under section 5703(b) of title 5, United States Code, for persons employed intermittently in the Government service.

"(c) The cost of training State and local personnel under this section shall be provided out of funds appropriated to the Administration for the purpose of such training."

GRANTS FOR CORRECTIONAL INSTITUTIONS AND FACILITIES

SEC. 6. (a) Title I of the Omnibus Crime Control and Safe Streets Act of 1968 is amended by inserting immediately after part D the following:

"PART E—GRANTS FOR CORRECTIONAL INSTITUTIONS AND FACILITIES

"SEC. 451. It is the purpose of this part to encourage States and units of general local government to develop and implement programs and projects for the construction, acquisition, and renovation of correctional institutions and facilities, and for the improvement of correctional programs and practices.

"SEC. 452. A State desiring to receive a grant under this part for any fiscal year shall, consistent with the basic criteria which the Administration establishes under section 454 of this title, incorporate its application for such grant in the comprehensive State plan submitted to the Administration for that fiscal year in accordance with section 302 of this title.

"SEC. 453. The Administration is authorized to make a grant under this part to a State planning agency if the application incorporated in the comprehensive State plan—

"(1) sets forth a comprehensive statewide program for the construction, acquisition, or renovation of correctional institutions and facilities in the State and the improvement of correctional programs and practices throughout the State;

"(2) provides satisfactory assurances that the control of the funds and title to property derived therefrom shall be in a public agency for the uses and purposes provided in this part and that a public agency will administer those funds and that property;

"(3) provides satisfactory assurances that the availability of funds under this part shall not reduce the amount of funds under part C of this title which a State would, in the absence of funds under this part, allocate for purposes of this part;

"(4) provides satisfactory emphasis on the development and operation of community-based correctional facilities and programs, including diagnostic services, halfway houses, probation, and other supervisory release programs for preadjudication and postadjudication referral of delinquents, youthful offenders, and first offenders, and community-oriented programs for the supervision of parolees;

"(5) provides for advanced techniques in the design of institutions and facilities;

"(6) provides, where feasible and desirable, for the sharing of correctional institutions and facilities on a regional basis;

"(7) provides satisfactory assurances that the personnel standards and programs of the institutions and facilities will reflect advanced practices;

"(8) provides satisfactory assurances that the State is engaging in projects and programs to improve the recruiting, organization, training, and education of personnel employed in correctional activities, including those of probation, parole, and rehabilitation; and

"(9) complies with the same requirements established for comprehensive State plans under paragraphs (1), (3), (4), (5), (7), (8), (9), (10), (11) and (12) of section 303 of this title.

"SEC. 454. The Administration shall, after consultation with the Federal Bureau of Prisons, by regulation prescribe basic criteria for applicants and grantees under this part.

"SEC. 455. (a) The funds appropriated each fiscal year to make grants under this part shall be allocated by the Administration as follows:

"(1) Fifty per centum of the funds shall be available for grants to State planning agencies.

"(2) The remaining fifty per centum of the funds may be made available, as the Administration may determine, to State planning agencies, units of general local government, or combinations of such units, according to the criteria and on the terms and conditions the Administration determines consistent with this part.

Any grant made from funds available under this part may be up to 75 per centum of the cost of the program or project for which such grant is made. No funds awarded under this part may be used for land acquisition.

"(b) If the Administration determines, on the basis of information available to it during any fiscal year, that a portion of the funds granted to an applicant for that fiscal year will not be required by the applicant or will become available by virtue of the application of the provisions of section 509 of this title, that portion shall be available for reallocation under paragraph (2) of subsection (a) of this section."

(b) Section 601 of such Act is amended by inserting at the end thereof the following new subsection:

"(l) The term 'correctional institution or facility' means any place for the confinement or rehabilitation of juvenile offenders or individuals charged with or convicted of criminal offenses."

(c) Part E and part F of title I of such Act are redesignated as part F and part G, respectively.

ADMINISTRATIVE PROVISIONS

SEC. 7. Part F of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (as redesignated by section 6(c) of this Act) is amended as follows:

(1) Section 505 is amended by striking "section 5315" and inserting "section 5314" and by striking "(90)" and inserting "(55)".

(2) Section 506 is amended by striking "section 5316" and inserting "section 5315" and by striking "(126)" and inserting "(90)".

(3) Section 508 is amended by inserting the following before the period at the end of the section: ", and to receive and utilize, for the purposes of this title, property donated or transferred for the purposes of testing by any other Federal agencies, States, units of general local government, public or private agencies or organizations, institutions of higher education, or individuals."

(4) Section 515 is amended by inserting at the end thereof the following new sentence: "Funds appropriated for the purposes of this section may be expended by grant or contract, as the Administration may determine to be appropriate."

(5) Section 516(a) is amended by striking out the period and inserting in lieu thereof the following: ", and may be used to pay the transportation

and subsistence expenses of persons attending conferences or other assemblages notwithstanding the provisions of the Joint Resolution entitled 'Joint Resolution to prohibit expenditure of any moneys for housing, feeding, or transporting conventions or meetings', approved February 2, 1935 (31 U.S.C. sec. 551)."

(6) Section 517 is amended to read as follows:

"SEC. 517. (a) The Administration may procure the services of experts and consultants in accordance with section 3109 of title 5, United States Code, at rates of compensation for individuals not to exceed the daily equivalent of the rate authorized for GS-18 by section 5332 of title 5, United States Code.

"(b) The Administration is authorized to appoint, without regard to the civil service laws, technical or other advisory committees to advise the Administration with respect to the administration of this title as it deems necessary. Members of those committees not otherwise in the employ of the United States, while engaged in advising the Administration or attending meetings of the committees, shall be compensated at rates to be fixed by the Administration but not to exceed the daily equivalent of the rate authorized for GS-18 by section 5332 of title 5 of the United States Code and while away from home or regular place of business they may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of such title 5 for persons in the Government service employed intermittently."

(7) Section 519 is amended to read as follows:

"SEC. 519. (a) On or before December 31 of each year, the Administration shall report to the President and to the Congress on activities pursuant to the provisions of this title during the preceding fiscal year.

"(b) Not later than May 1, 1971, the Administration shall submit to the President and to the Congress recommendations for legislation to assist in the purposes of this title with respect to promoting the integrity and accuracy of criminal justice data collection, processing, and dissemination systems funded in whole or in part by the Federal Government, and protecting the constitutional rights of all persons covered or affected by such systems."

(8) Section 520 is amended to read as follows:

"SEC. 520. There is authorized to be appropriated \$650,000,000 for the fiscal year ending June 30, 1971, of which \$120,000,000 shall be for the purposes of part E; \$150,000,000 for the fiscal year ending June 30, 1972, and \$1,750,000,000 for the fiscal year ending June 30, 1973. Funds appropriated for any fiscal year may remain available for obligation until expended. Beginning in the fiscal year ending June 30, 1972, and in each fiscal year thereafter there shall be allocated for the purposes of part E an amount equal to not less than 20 per centum of the amount allocated for the purposes of part C."

(9) Section 521 is amended by inserting at the end thereof the following new subsection:

"(c) The provisions of this section shall apply to all recipients of assistance under this Act, whether by direct grant or contract from the Administration or by subgrant or subcontract from primary grantees or contractors of the Administration."

SEC. 8. (a) Section 5314 of title 5, United States Code, is amended by striking "(1) Deputy Attorney General," and renumbering "(2)" through "(54)" respectively "(1)" through "(53)".

(b) Section 5313 of title 5, United States Code, is amended by adding at the end thereof "(20) Deputy Attorney General."

DEFINITIONS

SEC. 9. Section 601 of the Omnibus Crime Control and Safe Streets Act of 1968 is amended to read as follows:

(1) Subsection (a) is amended to read as follows:

"Law enforcement" means any activity pertaining to crime prevention control or reduction or the enforcement of the criminal law, including, but not limited to police efforts to prevent, control, or reduce crime or to apprehend criminals, activities of courts having criminal jurisdiction and related agencies, activities of corrections, probation, or parole authorities, and programs relating to the prevention, control, or reduction of juvenile delinquency or narcotic addiction."

(2) Subsection (d) is amended by striking out "or" the second place it appears and by striking out the period and inserting in lieu thereof the following: ", or, for the purpose of assistance eligibility, any agency of the District of Columbia government or the United States Government performing law enforcement functions in and for the District of Columbia and funds appropriated by the Congress for the activities of such agencies may be used to provide the non-Federal share of the cost of programs or projects funded under this title; provided, however, that such assistance eligibility of any agency of the United States Government shall be for the sole purpose of facilitating the transfer of criminal jurisdiction from the United States District Court for the District of Columbia to the Superior Court of the District of Columbia pursuant to the District of Columbia Court Reform and Criminal Procedure Act of 1970."

SEC. 10. Title I of the Omnibus Crime Control and Safe Streets Act of 1968 is amended by inserting immediately after part G (as redesignated by section 6(c) of this Act) the following:

"PART H—CRIMINAL PENALTIES

"SEC. 651. Whoever embezzles, willfully misapplies, steals, or obtains by fraud any funds, assets, or property which are the subject of a grant or contract or other form of assistance pursuant to this title, whether received directly or indirectly from the Administration, shall be fined not more than \$10,000 or imprisoned for not more than five years, or both.

"SEC. 652. Whoever knowingly and willfully falsifies, conceals, or covers up by trick, scheme, or device, any material fact in any application for assistance submitted pursuant to this title or in any records required to be maintained pursuant to this title shall be subject to prosecution under the provisions of section 1001 of title 18, United States Code.

"SEC. 653. Any law enforcement program or project underwritten, in whole or in part, by any grant, or contract or other form of assistance pursuant to this title, whether received directly or indirectly from the Administration, shall be subject to the provisions of section 371 of title 18, United States Code."

SEC. 11. Section 5108(c) of title 5 of the United States Code is amended by inserting at the end thereof the following new paragraph:

"(10) the Law Enforcement Assistance Administration may place a total of twenty positions in GS-16, 17, and 18."

SEC. 12. Title I of the Omnibus Crime Control and Safe Streets Act of 1968 is amended by inserting after part H (as designated by section 10 of this Act) the following new part:

PART I—ATTORNEY GENERAL'S ANNUAL REPORT ON FEDERAL LAW
ENFORCEMENT AND CRIMINAL JUSTICE ACTIVITIES

SEC. 670. *The Attorney General, in consultation with the appropriate officials in the agencies involved, within 90 days of the end of each fiscal year shall submit to the President and to the Congress an Annual Report on Federal Law Enforcement and Criminal Justice Assistance Activities setting forth the programs conducted, expenditures made, results achieved, plans developed, and problems discovered in the operations on coordination of the various federal assistance programs relating to crime prevention and control, including, but not limited to, the Juvenile Delinquency Prevention and Control Act of 1968, the Narcotics Addict Rehabilitation Act of 1968, the Gun Control Act of 1968, the Criminal Justice Act of 1964, title XI of the Organized Crime Control Act of 1970 (relating to the regulation of explosives), and title III of the Omnibus Crime Control and Safe Streets Act of 1968 (relating to wiretapping and electronic surveillance).*

TITLE II—STRICTER SENTENCES

SEC. 13. Section 924(c) of title 18, United States Code, is amended to read as follows:

“(c) Whoever—

“(1) uses a firearm to commit any felony for which he may be prosecuted in a court of the United States, or

“(2) carries a firearm unlawfully during the commission of any felony for which he may be prosecuted in a court of the United States shall, in addition to the punishment provided for the commission of such felony, be sentenced to a term of imprisonment for not less than one year nor more than ten years. In the case of his second or subsequent conviction under this subsection, such person shall be sentenced to a term of imprisonment for not less than two nor more than twenty-five years and, notwithstanding any other provision of law, the court shall not suspend the sentence in the case of a second or subsequent conviction of such person or give him a probationary sentence, nor shall the term of imprisonment imposed under this subsection run concurrently with any term of imprisonment imposed for the commission of such felony.”

TITLE III—CRIMINAL APPEALS

SEC. 14. (a) Section 3731 of title 18, United States Code, is amended—

(1) by striking out the first eight paragraphs and inserting in lieu thereof the following:

“In a criminal case an appeal by the United States shall lie to a court of appeals from a decision, judgment, or order of a district court dismissing an indictment or information as to any one or more counts, except that no appeal shall lie where the double jeopardy clause of the United States Constitution prohibits further prosecution.

“An appeal by the United States shall lie to a court of appeals from a decision or order of a district court suppressing or excluding evidence or requiring the return of seized property in a criminal proceeding, not made after the defendant has been put in jeopardy and before the verdict or finding on an indictment or information, if the United States attorney certifies to the district court that the appeal is not taken for purpose of delay and that the evidence is a substantial proof of a fact material in the proceeding.”;

(2) by striking out the word "or" in the ninth paragraph and inserting in lieu thereof a comma, and inserting "or order" following the word "judgment" in the same paragraph;

(3) by striking out the last two paragraphs and inserting in lieu thereof a new paragraph as follows:

"The provisions of this section shall be liberally construed to effectuate its purposes."

(b) The amendments made by this section shall not apply with respect to any criminal case begun in any district court before the effective date of this section.

TITLE IV—PROTECTION OF MEMBERS OF CONGRESS

SEC. 15. Part I of title 18 of the United States Code is amended by inserting, immediately after chapter 17, a new chapter as follows:

"Chapter 18.—CONGRESSIONAL ASSASSINATION, KIDNAPING, AND ASSAULT

"Sec.

"351. Congressional assassination, kidnaping, and assault; penalties.

"§ 351. Congressional assassination, kidnaping, and assault; penalties

"(a) Whoever kills any individual who is a Member of Congress or a Member-of-Congress-elect shall be punished as provided by sections 1111 and 1112 of this title.

"(b) Whoever kidnaps any individual designated in subsection (a) of this section shall be punished (1) by imprisonment for any term of years or for life, or (2) by death or imprisonment for any term of years or for life, if death results to such individual.

"(c) Whoever attempts to kill or kidnap any individual designated in subsection (a) of this section shall be punished by imprisonment for any term of years or for life.

"(d) If two or more persons conspire to kill or kidnap any individual designated in subsection (a) of this section and one or more of such persons do any act to effect the object of the conspiracy, each shall be punished (1) by imprisonment for any term of years or for life, or (2) by death or imprisonment for any term of years or for life, if death results to such individual.

"(e) Whoever assaults any person designated in subsection (a) of this section shall be fined not more than \$5,000, or imprisoned not more than one year, or both; and if personal injury results, shall be fined not more than \$10,000, or imprisoned for not more than ten years, or both.

"(f) If Federal investigative or prosecutive jurisdiction is asserted for violation of this section, such assertion shall suspend the exercise of jurisdiction by a State or local authority, under any applicable State or local law, until Federal action is terminated.

"(g) Violations of this section shall be investigated by the Federal Bureau of Investigation. Assistance may be requested from any Federal, State, or local agency, including the Army, Navy, and Air Force, any statute, rule, or regulation to the contrary notwithstanding."

SEC. 16. Paragraph (c), subsection (1), section 2516, title 18, United States Code, is amended by striking the word "or" in the last phrase of the subsection and inserting at the end thereof between the parenthesis and

the semicolon "or section 351 (violations with respect to congressional assassination, kidnaping, and assault)".

SEC. 17. The table of contents to part I of title 18, United States Code, is amended by inserting after the following chapter reference:

"17. Coins and currency----- 331"

a new chapter reference as follows.

"18. Congressional assassination, kidnaping, and assault----- 351".

TITLE V—PROTECTION OF THE PRESIDENT

SEC. 18. Title 18, United States Code, is amended by adding the following new section after section 1751.

"§ 1752. Temporary residence of the President

(a) It shall be unlawful for any person or group of persons—

"(1) willingly and knowingly to enter or remain in

"(i) any building or grounds designated by the Secretary of the Treasury as temporary residences of the President or as temporary offices of the President and his staff, or

"(ii) any posted, cordoned off, or otherwise restricted area of a building or grounds where the President is or will be temporarily visiting,

in violation of the regulations governing ingress or egress thereto:

"(2) with intent to impede or disrupt the orderly conduct of Government business or official functions, to engage in disorderly or disruptive conduct in, or within such proximity to, any building or grounds designated in paragraph (1) when, or so that, such conduct, in fact, impedes or disrupts the orderly conduct of Government business or official functions;

"(3) willfully and knowingly to obstruct or impede ingress or egress to or from any building, grounds, or area designated or enumerated in paragraph (1); or

"(4) willfully and knowingly to engage in any act of physical violence against any person or property in any building, grounds, or area designated or enumerated in paragraph (1).

"(b) Violation of this section, and attempts or conspiracies to commit such violations, shall be punishable by a fine not exceeding \$500 or imprisonment not exceeding six months, or both.

"(c) Violation of this section, and attempts or conspiracies to commit such violations, shall be prosecuted by the United States attorney in the Federal district court having jurisdiction of the place where the offense occurred.

"(d) The Secretary of the Treasury is authorized—

"(1) to designate by regulations the buildings and grounds which constitute the temporary residences of the President and the temporary offices of the President and his staff, and

"(2) to prescribe regulations governing ingress or egress to such Buildings and grounds and to posted, cordoned off, or otherwise restricted areas where the President is or will be temporarily visiting.

"(e) None of the laws of the United States or of the several States and the District of Columbia shall be superseded by this section."

SEC. 19. Section 3056, title 16, United States Code, is amended by designating the present paragraph as "(a)" and adding a new paragraph at the end thereof as follows:

"(b) Whoever knowingly and willfully obstructs, resists, or interferes with an agent of the United States Secret Service engaged in the performance of the protective functions authorized by this section, by the Act of June 6, 1968 (82 Stat. 170), or by section 1752 of title 18, United States Code, shall be fined not more than \$300 or imprisoned not more than one year, or both."

TITLE VI—WIRETAP COMMISSION

SEC. 20. (a) Title III of the Omnibus Crime Control and Safe Streets Act of 1968 (82 Stat. 211) is amended by striking subsection (g) of section 804 and inserting the following:

"(g) (1) The Commission or any duly authorized subcommittee or member thereof may, for the purpose of carrying out the provisions of this title, hold such hearings, sit and act at such times and places, administer such oaths, and require by subpoena or otherwise the attendance and testimony of such witnesses and the production of such books, records, correspondence, memorandums, papers and documents as the Commission or such subcommittee or member may deem advisable. Any member of the Commission may administer oaths or affirmations to witnesses appearing before the Commission or before such subcommittee or member. Subpoenas may be issued under the signature of the Chairman or any duly designated member of the Commission, and may be served by any person designated by the Chairman or such member.

"(2) In the case of contumacy or refusal to obey a subpoena issued under subsection (1) by any person who resides, is found, or transacts business within the jurisdiction of any district court of the United States, the district court, at the request of the Chairman of the Commission, shall have jurisdiction to issue to such person an order requiring such person to appear before the Commission or a subcommittee or member thereof, there to produce evidence if so ordered, or there to give testimony touching the matter under inquiry. Any failure of any such person to obey any such order of the court may be punished by the court as a contempt thereof.

"(3) The Commission shall be 'an agency of the United States' under subsection (1), section 6001, title 18, United States Code for the purpose of granting immunity to witnesses.

"(4) Each department, agency, and instrumentality of the executive branch of the Government, including independent agencies, is authorized and directed to furnish to the Commission, upon request made by the Chairman, on a reimbursable basis or otherwise, such statistical data, reports, and other information as the Commission deems necessary to carry out its functions under this title. The Chairman is further authorized to call upon the departments, agencies, and other offices of the several States, to furnish, on a reimbursable basis or otherwise, such statistical data, reports, and other information as the Commission deems necessary to carry out its functions under this title."

(b) Such title is further amended as follows:

(1) in subsection (h) of section 804, strike "one-year" and insert "two-year", and

(2) in subsection (k) of section 804, strike "six-year" and insert "fifth year".

(c) Section 1212 of the Organized Crime Control Act of 1970 is hereby repealed.

And the Senate agree to the same.

EMANUEL CELLER,
PETER W. RODINO, Jr.,
BYRON G. ROGERS,
WILLIAM M. McCULLOCH,
RICHARD H. POFF,

Managers on the Part of the House.

JOHN L. MCCLELLAN,
SAM J. ERVIN, Jr.,
PHILIP A. HART,
JAMES O. EASTLAND,
EDWARD M. KENNEDY,
ROBERT C. BYRD,
ROMAN L. HRUSKA,
HUGH SCOTT,
STROM THURMOND,
MARLOW W. COOK,

Managers on the Part of the Senate.

STATEMENT OF THE MANAGERS ON THE PART OF THE HOUSE

The managers on the part of the House at the conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 17825) to amend the Omnibus Crime Control and Safe Streets Act of 1968, and for other purposes, submit the following statement in explanation of the effect of the action agreed upon by the conferees and recommended in the accompanying conference report:

The Senate struck out all of the House bill after the enacting clause and inserted a substitute amendment. The committee of conference has agreed to a substitute for both the House bill and the Senate amendment. Except for technical, clarifying, and conforming changes, the following statement explains the differences between the House bill and the substitute agreed to in conference.

SHORT TITLE

The House bill provided a short title of "Omnibus Crime Control and Safe Streets Act Amendments of 1970." The Senate amendment proposed the short title "Omnibus Crime Control Act of 1970." The conference substitute adopts the Senate amendment.

LAW ENFORCEMENT ASSISTANCE ADMINISTRATION

Under the House bill the three-man board system of administering LEAA was abolished and substituted in its place was a single Administrator empowered to determine policy as well as administrative matters. The posts of Associate Administrators were retained for persons who would serve as deputies to the Administrator.

The Senate amendment retained the triumvirate system but vested all administrative powers, including appointment and supervision of personnel, in the Administrator. Other functions, powers and duties were to be exercised by the Administrator with the concurrence of at least one of the Associate Administrators. The Senate version required, except for the present incumbents, that one of the two Associate Administrators be of a different political party than the President. The conference substitute adopts the Senate amendment.

PLANNING GRANTS

Waiver of planning grant "pass-through".—The Senate amendment contained a provision not in the House bill which authorized the Law Enforcement Assistance Administration (LEAA) to waive, in whole or in part, the requirement that State planning agencies make available to units of general local government at least 40 percent of funds granted for the establishment and operation of planning agencies. Under the Senate amendment, the LEAA waiver must be based upon a finding

that this "pass-through" was inappropriate and that adherence to the requirement would not contribute to efficient development of the State plan. The conference substitute adopts the Senate amendment.

Disposition of planning funds.—The Senate amendment contained a provision not in the House bill which provided that State planning agencies in allocating planning funds must assure that major cities and counties within the State receive funds to develop comprehensive plans and coordinate functions at the local level. The conference substitute adopts the Senate amendment.

Planning grant matching requirement.—The Senate amendment contained a provision not in the House bill that repealed a limitation, only applicable where a State does not establish a planning agency, that Federal planning grants made directly to units of general local government shall not exceed 90 percent of the expenses of local planning. The conference substitute adopts the Senate amendment.

GRANTS FOR LAW ENFORCEMENT PURPOSES

Rental and leasing of buildings.—The House bill contained a provision authorizing grants to States for the rental and leasing, as well as the construction of buildings or other physical facilities. The Senate amendment does not contain this provision. The House provision would inadvertently have reduced the Federal share of the costs of renting or leasing. The conference substitute conforms to the Senate amendment.

Criminal Justice Coordinating Councils.—Both the House bill and the Senate amendment provided authorization to make grants for the establishment of Criminal Justice Coordinating Councils for units of general local government. The Senate amendment, however, limited such grants to units or combinations of units having a population of 250,000 or more. The conference substitute adopts the Senate amendment.

Community-based delinquent prevention.—The Senate amendment contained a provision not in the House bill which provided authorization to make grants for (a) community-based programs relating to (i) delinquent prevention and correction and (ii) guidance for potential repeat youthful offenders; and (b) expanded probationary programs. The conference substitute adopts the Senate amendment.

Federal share of program costs under bloc grants.—The Senate amendment contained a provision not in the House bill which authorized Federal grants in an amount up to 70 percent of the cost of certain law enforcement programs and projects. The conference substitute conforms to the Senate amendment except that such grants are permitted up to 75 percent of such program or project costs.

Waiver of matching requirements under bloc grants.—The Senate amendment contained a provision not in the House bill which permitted LEAA to waive matching requirements in the case of grants to Indian tribes and other aboriginal groups which the Administration determined did not have sufficient funds to meet the local share of program costs. The conference substitute adopts the Senate amendment.

Amount and character of non-Federal matching requirements under bloc grants.—The Senate amendment contained a provision not in the House bill which required that, effective July 1, 1972, at least 50

percent of the non-Federal share of the funding of any program or project be from money appropriated in the aggregate by the State or local government for such program or project (as opposed to donated services or property). The conference substitute conforms to the Senate amendment except that the cash requirement is reduced to 40 percent.

Condition on LEAA approval of State plans.—The House bill contained a provision that required that approval of a State plan for law enforcement assistance must be based on a specific LEAA finding that the plan provided for the allocation of an adequate share of assistance to deal with law enforcement problems in areas of high crime incidence.

The Senate amendment provided that LEAA approval of a State plan must be based on a finding that the State's plan provided for the allocation of an adequate share of benefits of assistance to areas characterized by high law enforcement activity to deal with the special law enforcement problems of such areas. The conference substitute requires that no State plan shall be approved by LEAA unless it provides adequate assistance to areas characterized by both high crime incidence and high law enforcement activity, such as high number of arrests, congested court calendars and crowded correction facilities.

Percentage of Federal funds subject to "pass-through".—Under the House bill existing law was retained which required that at least 75 percent of Federal funds be made available by State planning agencies to units of general local government for law enforcement programs and projects. The Senate amendment contained a flexible "pass-through" formula which provided that each State shall make available to local units of government that portion of its bloc grant that corresponds to the portion of total statewide law enforcement expenditures for the preceding fiscal year which was funded and expended by local units. The conference substitute conforms to the Senate amendment except that institution of the "flexible formula" is deferred until July 1, 1972.

State contribution relating to funds "passed-through".—The House bill contained a provision not in the Senate amendment which required that the States provide at least one-fourth of the non-Federal funding required for federally assisted local law enforcement programs. The conference substitute conforms to the House bill except that the requirement of State contribution is deferred until July 1, 1972, and that such contribution is required to be on an aggregate rather than a project basis.

Reallocation of bloc grant funds.—The House bill contained provisions permitting bloc grant funds to be distributed as discretionary grants if (1) a State has failed to have a plan approved, either because it submitted no plan or because the plan submitted was unacceptable, (2) a State submitted an acceptable plan but failed to comply with the assurances given in the plan, the provisions of the Act, or administrative regulations, or (3) a State submitted an acceptable plan and was in compliance but failed to use or claim a portion of the funds. The Senate amendment provided that, in such instances, the funds be reallocated as bloc grants. The conference substitute conforms to the House bill in the first two instances and to the Senate amendment in the third instance.

Federal share of program costs under discretionary grants.—The House bill contained a provision permitting Federal grants up to 90 percent of program costs. The Senate amendment permitted Federal grants up to 70 percent of program costs. The conference substitute authorizes Federal grants up to 75 percent of program costs.

Waiver of matching requirements under discretionary grants.—The House bill contained a provision permitting Federal grants up to 100 percent of program costs if LEAA determined that the applicant was unable to provide sufficient funds. The Senate amendment permitted LEAA to waive percentage matching requirements only in the case of grants to Indian tribes or other aboriginal groups. The conference substitute adopts the Senate amendment.

Limitations on personnel compensation under discretionary grants.—The Senate amendment contained a provision not in the House bill which imposed on discretionary grants the same limitation applicable to bloc grants that not more than one-third of any discretionary grant may be expended for compensation of police and other law enforcement personnel. The conference substitute adopts the Senate amendment.

Amount and character of non-Federal matching requirements under discretionary grants.—The Senate amendment contained a provision not in the House bill which required that, effective July 1, 1972, at least 50 percent of the non-Federal share of the funding of any program or project be for money appropriated in the aggregate by the State or local government for such program or project (as opposed to donated services or property). The conference substitute conforms to the Senate amendment except the cash requirement is reduced to 40 percent.

TRAINING, EDUCATION, RESEARCH, DEMONSTRATION AND SPECIAL GRANTS

Law enforcement internships.—The Senate amendment contained a provision not in the House bill which authorized the Law Enforcement Assistance Administration to make grants up to \$50 per week to undergraduate and graduate students who serve at certain times in fulltime internships in law enforcement agencies. The conference substitute adopts the Senate amendment.

Training program for organized crime prosecutors.—The Senate amendment contained a provision not in the House bill which authorized the Law Enforcement Assistance Administration to establish and conduct permanent training programs for prosecuting attorneys from State and local offices. The conference substitute provides that LEAA may establish and support such programs but does not provide that such training be established on a permanent basis.

GRANTS FOR CORRECTIONAL INSTITUTIONS AND FACILITIES

Application requirements.—The Senate amendment contained a provision not in the House bill which required that application for grants for the construction of correctional institutions or facilities provide satisfactory emphasis on the development and operation of community-based correctional facilities and programs. The conference substitute adopts the Senate amendment.

ADMINISTRATIVE PROVISIONS

Increase in salaries of Administrator and Associate Administrators.—The Senate amendment contained a provision not in the House bill which changed the salary of the Administrator of Law Enforcement Assistance Administration from Level IV of Executive Schedule (\$38,000) to Level III of Executive Schedule (\$40,000), and changed the salaries of Associate Administrators from Level V of Executive Schedule (\$36,000) to Level IV of Executive Schedule (\$38,000). The conference substitute adopts the Senate amendment.

Authority to receive and use donated and transferred property.—The Senate amendment contained a provision not in the House bill which authorized LEAA to receive and use funds and property donated or transferred by other Federal agencies and public and private agencies and organizations. The conference substitute provides that LEAA may receive and use property such as experimental equipment and devices donated or transferred for testing purposes, but does not authorize the receipt of funds.

Legislative recommendations.—The Senate amendment contained a provision not in the House bill which required LEAA to submit to the President and the Congress not later than February 1, 1971, recommendations for legislation relating to Criminal Justice Data Collection. The conference substitute is identical to the Senate amendment except that the deadline for submitting such recommendations is set at May 1, 1971, and it makes clear that the recommendations should assist in the purposes of the Law Enforcement Assistance Program.

Authorization for and earmarking of appropriations.—The House bill authorized appropriations of up to \$650 million for fiscal year 1971; \$1 billion for fiscal year 1972, and \$1.5 billion for fiscal year 1973. The House bill also provided that not less than 25 per centum of the amounts appropriated should be devoted to the purposes of corrections, including probation and parole.

The Senate amendment authorized appropriations up to \$650 million for fiscal year 1971; \$1.15 billion for fiscal year 1972, and \$1.75 billion for fiscal year 1973. The Senate amendment further provided that of such funds, \$100 million in fiscal year 1971; \$150 million in 1972, and \$250 million in fiscal 1973 should be used for the purposes of part E.

The conference substitute conforms to the Senate amendment except that beginning in the fiscal year ending June 30, 1972, and in each fiscal year thereafter, it provides that there shall be allocated for the purposes of part E (grants for Correctional Institutions and Facilities) an amount equal to not less than 20 percent of the amount allocated for the purposes of part C.

DEFINITIONS

Law enforcement.—Under the House bill, the term "law enforcement" was redefined to mean all activities pertaining to the administration of criminal justice, including, but not limited to, police efforts to prevent crime and to apprehend criminals, activities of the criminal courts and related agencies, and activities of corrections, probation, and parole authorities. Under the Senate amendment such term is defined also to include programs relating to the prevention, control or

reduction of juvenile delinquency or narcotics addiction. The conference substitute adopts the Senate amendment.

Definition of unit of general local government.—Both the House bill and the Senate amendment defined “unit of general local government” to include any agency of the District of Columbia Government performing law enforcement functions in and for the District of Columbia. The Senate amendment further included within the definition, for the purpose of assistance eligibility, any agency of the United States Government performing such functions in the District. The conference substitute conforms to the Senate amendment and makes clear that such assistance eligibility of any agency of the United States Government shall be for the sole purpose of facilitating the transfer of criminal jurisdiction under the District of Columbia Court Reform and Criminal Procedure Act of 1970.

CRIMINAL PENALTIES

The Senate amendment contained three provisions not in the House bill which provided penalties for embezzlement or theft, and penalties for fraud and misrepresentation, and made applicable the Federal conspiracy statute to any law enforcement program or project underwritten by any grant or contract or other form of assistance by the Law Enforcement Assistance Administration. The conference substitute adopts the Senate amendment.

ATTORNEY GENERAL'S ANNUAL REPORT

The Senate amendment contained a provision not in the House bill which required that the Attorney General submit to the President and to the Congress an annual report on Federal Law Enforcement and Criminal Justice Assistance Activities, including, but not limited to activities under the Juvenile Delinquency Prevention and Control Act of 1968, the Narcotic Addiction Rehabilitation Act of 1968, and the Gun Control Act of 1968. The conference substitute conforms to the Senate amendment except that it provides that the annual report also include reference to the Criminal Justice Act of 1964, as amended, and Title XI of the Organized Crime Control Act of 1970 (relating to the Regulation of Explosives), and Title III of the Omnibus Crime Control and Safe Streets Act of 1968 (Wiretapping and Electronic Surveillance).

PERSONNEL

Supergrade positions.—The House bill authorized LEAA to place a total of 15 positions in grades GS-16, 17 and 18; the Senate amendment authorized 25 such positions. The conference substitute authorizes LEAA to place 20 such positions.

Increase in salary of Deputy Attorney General.—The Senate amendment contained a provision not in the House bill which changed the salary of the Deputy Attorney General from Level III of the Executive Schedule (\$40,000) to Level II of the Executive Schedule (\$42,500). The conference report adopts the Senate amendment.

AMENDMENT TO THE GUN CONTROL ACT OF 1968

The Senate amendment contained a provision not in the House bill amending a section of the Gun Control Act of 1968 that imposes

additional penalties for the use of a firearm to commit, or for carriage of a firearm unlawfully during the commission of, a Federal felony. The Senate amendment reduced the minimum sentence for a second or subsequent offense from five to two years, and also provided that a sentence could not run concurrently with any sentence imposed for the underlying Federal felony. The conference substitute adopts the Senate amendment.

AMENDMENTS TO THE CRIMINAL APPEALS ACT

The Senate amendment contained provisions not in the House bill which amended the Criminal Appeals Act, section 3731 of title 18, United States Code, in the following significant respects:

1. Technical distinctions in pleadings as limitations on appeals by the United States were eliminated and in their place the Government was authorized to appeal any decision or order terminating a prosecution except an acquittal.

2. The Government's right to appeal orders suppressing evidence was extended to all criminal proceedings including probation revocation hearings.

3. Government appeals were required to be taken to a court of appeals unless the decision was based at least in part on a determination of the invalidity of an Act of Congress which, upon a district court order or the Attorney General's certification, could be taken directly to the Supreme Court.

4. A provision was included declaring that the Criminal Appeals Act should be liberally construed.

The conference substitute conforms to the Senate amendment except that it provides that an appeal by the United States shall lie to a court of appeals from a decision, judgment or order of a district court dismissing an indictment or information as to any one or more counts, but that no appeal shall lie in any case in which the Double Jeopardy Clause of the United States Constitution prohibits further prosecution. Although the conference substitute does not provide for direct appeal to the Supreme Court, it is recognized that under section 1254 of title 28, United States Code, cases in the courts of appeal may be reviewed by the Supreme Court directly. The conference substitute further provides that the amendments made to the Criminal Appeals Act herein shall not apply with respect to any criminal case begun in any district court before the effective date of the amendments.

PROTECTION OF THE PRESIDENT

The Senate amendment contained a provision not in the House bill amending chapter 84 of title 18, United States Code, which penalizes presidential assassination, kidnapping and assault. The Senate amendment establishes new Federal penalties for unauthorized entry into any building or the grounds thereof where the President is or may be temporarily residing. It also penalizes intentional disruption of the conduct of Government business or official functions in any such building or on such grounds. The conference substitute adopts the Senate amendment with the substitution of the term "attempts" for the term "endeavors."

PROTECTION OF MEMBERS OF CONGRESS

The Senate amendment contained a provision not in the House bill—adding a new chapter 18 to title 18, United States Code—making it a Federal offense to assassinate, kidnap or assault a Member of Congress or a Member-of-Congress-elect or to endeavor or to conspire to commit such offenses.

The conference substitute adopts the Senate amendment with the substitution of the term “attempts” for the term “endeavors.”

WIRETAP COMMISSION

The Senate amendment contained a provision not in the House bill which reenacted provisions establishing the National Commission for the Review of Federal and State Laws Relating to Wiretapping and Electronic Surveillance which were repealed by the Organized Crime Control Act of 1970. The Senate amendment also amended the provisions relating to the commission by (1) conferring subpoena power on the commission, (2) extending for one year the period within which the commission is to make a final report, (3) making the establishment of the commission effective one year earlier (1973) than under existing law, and (4) defining the commission as an “agency” for purposes of granting immunity to witnesses under section 6001 of title 18, United States Code.

The conference substitute conforms to the Senate amendment.

EMANUEL CELLER,
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BYRON G. ROGERS,
WILLIAM M. McCULLOCH,
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Managers on the Part of the House.

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